

Clyde A. Thompson, SBN 72920
HAAPALA, THOMPSON & ABERN, LLP
1939 Harrison Street, Suite 800
Oakland, California 94612
Tel: 510-763-2324
Fax: 510-273-8570

Attorneys For Defendants
COUNTY OF ALAMEDA, DEPUTY CHRISTOPHER
MELENDEZ, and DEPUTY MICHAEL LADNER

ORIGINAL
FILED
JUL 21 2008
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

JAMES R. GILLETTE,

Plaintiff,

vs.

ALAMEDA COUNTY SHERRIFF'S
DEPARTMENT, CALIFORNIA,
CHRISTOPHER MELENDEZ, MICHAEL
LADNER, ALAMEDA COUNTY,

Defendants.

Case No.:

C08-03485

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. Section 1441(b) (Federal
Question)**

Please take notice that Defendants COUNTY OF ALAMEDA (which includes the
ALAMEDA COUNTY SHERIFF'S DEPARTMENT erroneously sued herein as a separate
defendant), DEPUTY CHRISTOPHER MELENDEZ, DEPUTY MICHAEL LADNER
(hereinafter referred to as "defendants"), pursuant to 28 U.S.C. Sections 1441 through 1451,
hereby remove to this Court the state court action described below.

1. Commencement of State Action

On June 20, 2008, an action was commenced against Defendants in the Superior Court
of the State of California, County of Alameda, entitled " JAMES R. GILLETTE v. ALAMEDA
COUNTY SHERIFFS DEPARTMENT, CALIFORNIA, CHRISTOPHER MELENDEZ,
MICHAEL LADNER, ALAMEDA COUNTY, Case Number HG08385835.

True and correct copies of all process, pleadings and Orders served on defendants are
attached as Exhibit 1.

Haapala, Thompson & Abern LLP
Attorneys At Law
Park Plaza Building
1939 Harrison St., Suite 800
Oakland, California 94612
Telephone: 510-763-2324
Facsimile: 510-273-8570

VRW

Clyde A. Thompson
Attorneys For Defendants
COUNTY OF ALAMEDA,
DEPUTY CHRISTOPHER MELENDEZ, and
DEPUTY MICHAEL LADNER

EXHIBIT 1

James R. Gillette
507 Redwood Ave.
Milpitas, CA 95035-_____

Superior Court of California, County of Alameda

Gillette

Plaintiff/Petitioner(s)

VS.

Alameda County Sheriff's Department, California

Defendant/Respondent(s)

(Abbreviated Title)

No. HG08385835

**NOTICE OF CASE MANAGEMENT
CONFERENCE AND ORDER**
Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 09/18/2008 Time: 03:15 PM	Department: 24 Location: Administration Building Third Floor 1221 Oak Street, Oakland CA 94612 Internet: http://www.alameda.courts.ca.gov	Judge: Patrick J. Zika Clerk: Benilda Nelson Clerk telephone: (510) 267-6940 E-mail: Dept.24@alameda.courts.ca.gov Fax: (510) 267-1509
------------------------------------	--	--

ORDERS

1. You must:
 - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. Give notice of this conference to any party not included in this notice and file proof of service;
 - c. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
 - d. File and serve a completed Case Management Conference Statement (use of Judicial Council Form CM 110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)
2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.
3. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
 - a. Referring to ADR and setting an ADR completion date
 - b. Dismissing or severing claims or parties
 - c. Setting a trial date.

*Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 05/09/2008.

By

Jim A. Hodge

Deputy Clerk

RECEIVED

JUN 24 2008

AIMS

Superior Court of California, County of Alameda



Notice of Judicial Assignment for All Purposes

Case Number: HG08385835
Case Title: Gillette VS Alameda County Sheriff's Department, California
Date of Filing: 05/06/2008

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This case is hereby assigned for all purposes to:

Judge:	Patrick J. Zika
Department:	24
Address:	Administration Building 1221 Oak Street Oakland CA 94612
Phone Number:	(510) 267-6940
Fax Number:	(510) 267-1509
Email Address:	Dept.24@alameda.courts.ca.gov

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JUN 24 2008
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Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

Please note: In this case, any challenge pursuant to Code of Civil Procedure §170.6 must be exercised within the time period provided by law. (See Govt. Code 68616(i); Motion Picture and Television Fund Hosp. v. Superior Court (2001) 88 Cal.App.4th 488, 494; and Code Civ. Proc. §1013.)

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULES.

General Procedures

All pleadings and other documents must be filed in the clerk's office at any court location except when the Court permits the lodging of material directly in the assigned department. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO
JUDGE Patrick J. Zika
DEPARTMENT 24

Counsel are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at: <http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at www.courtinfo.ca.gov.

The parties are always encouraged to consider using various alternatives to litigation, including mediation and arbitration, prior to the Initial Case Management Conference. The Court may refer parties to alternative dispute resolution resources.

The use of e-mail is generally preferred by the court to reduce the heavy burden on court staff in responding to telephone and fax communications, particularly for requests relating to scheduling of case management events. Use of e-mail will greatly facilitate a prompt response by the court and staff to your inquiries.

Please note that use of e-mail/fax is not a substitute for the filing of pleadings or other documents.

Counsel and self-represented parties are reminded of the obligation to provide copies of all such communications to opposing counsel and self-represented parties on a contemporaneous basis.

If the communication requests a response from the court, e-mail addresses of all opposing counsel/self represented parties shall be supplied in the original e-mail whenever available to the sender.

When sending an e-mail, the e-mail must be free of viruses and preferably in Microsoft Word format. Do not send the Court Courtesy copy of any pleading unless specifically requested.

Schedule for Department 24

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions. Parties must confer on agreeable dates consistent with the court's schedules before contacting the clerk to reserve a date.

- Trials generally are held: Mondays through Thursdays at 9:00 a.m.
- Case Management Conferences are held: Initial Case Management Conferences: Wednesdays and Thursdays at 3:15 p.m.
- Case Management Conference Continuances: Fridays at 9:00 a.m.
- Law and Motion matters are heard: Mondays and Tuesdays at 3:15 p.m. Contact the clerk to reserve a date before filing any law and motion matters. For Tentative rulings, please see specifically Local Rule 3.30(c). To contest a ruling, call or e-mail Dept. 24 in a timely manner.
- Settlement Conferences are heard: Fridays at 10:00 a.m.
- Ex Parte matters are heard: Mondays and Wednesdays at 3:00 p.m. Contact the clerk to reserve a date and time before noticing any party.
- Contact the clerk to reserve a date before filing any demurrers. Contact the clerk to reserve a date before filing any summary judgments.

Law and Motion Procedures

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations

Email: Dept.24@alameda.courts.ca.gov

Trial Management Compliance hearings and first day of trial: Fridays at 2:00 p.m.
Compliance hearings are heard: Mondays through Thursdays at 3:15 p.m. and
Fridays at 9:00 a.m.

- Ex Parte Matters

Email: Dept.24@alameda.courts.ca.gov

Contact the clerk to reserve a date and time before noticing any party.

Tentative Rulings

The court will issue tentative rulings in accordance with the Local Rules. Tentative rulings will become the Court's order unless contested in accordance with the Local Rules. Tentative rulings will be available at:

- Website: www.alameda.courts.ca.gov/domainweb, Calendar Information for Dept. 24
- Phone: 1-866-223-2244

Dated: 05/08/2008

Executive Officer / Clerk of the Superior Court

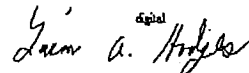
By *Jan A. Hayes*
Deputy Clerk

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 05/09/2008

By

A handwritten signature in cursive script, appearing to read "Liam A. Hynes".

Deputy Clerk

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

Alameda County Sheriff's Department, California, Christopher Melendez,
Michael Ladner, Alameda County et, al.

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

James R. Gillette

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JUN 20 2008

CLERK, BOARD
OF SUPERIOR COURTSFOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ENDORSED
FILED
ALAMEDA COUNTY

JUN 20 2008

CLERK OF THE SUPERIOR COURT
By Cecilia Anchundo, Deputy

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Hayward Hall of Justice

24405 Amador St.

Hayward Ca. 94544

CASE NUMBER:
(Número del Caso):

HG08385835

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

JUN 20 2008

(Fecha)

PAT SWEETEN

EXECUTIVE OFFICER/CLERK

Clerk, by
(Secretario)

CECILIA ANCHUNDO

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☒ by personal delivery on (date):

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JUN 24 2008

AIMS

JAMES R. GILLETTE,
Plaintiff,

vs.

ALAMEDA COUNTY SHERIFFS
DEPARTMENT,
CALIFORNIA, CHRISTOPHER
MELENDEZ, MICHAEL LADNER,
ALAMEDA COUNTY ET, AL.,

Defendant

Case No.:

PLAINTIFFS COMPLAINT

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PROPOUNDING PARTY: JAMES R. GILLETTE

RESPONDING PARTY: CHRISTOPHER MELENDEZ, MICHAEL LADNER,
ALAMEDA COUNTY SHERRIFFS DEPT. et, al.

Dated this 3rd day of May, 2008

507 Redwood Ave.
Milpitas Ca. 95035
JAMES R GILLETTE IN
PRO PER

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COMPLAINT

Come the Plaintiffs and for cause of action would state as follows: On June

1. INTRODUCTION

This action arises under the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution; under federal law, specifically 42 U.S.C. §1983 and 1988; under the California governmental tort liability statutes; under Cal. Civil Code §52(b), et seq., and under California common law for intentional and/or negligent infliction of emotional distress, negligence, negligent supervision, gross negligence, assault, battery, excessive force, false imprisonment, false arrest and civil conspiracy.

While the individual Defendants were acting in the scope of their employment and under the color of state law, they made an unlawful stop of Plaintiff that resulted in unreasonable search and the excessive use of force against the Plaintiff. The Defendants actions caused injury to the Plaintiff and emotional distress.

Action is also brought against the County of Alameda for its failure to properly train and supervise the individual Defendants in the proper use of force and techniques used to secure the search of a vehicle, Proper dispatch policy, and its establishment of policies, procedures, practices, and customs regarding arrests that result in the use of excessive force.

Plaintiff, James R Gillette
Defendants, ASCO Deputy Michael Ladner badge #1498, ACSO Deputy Christopher Melendez badge #1860, Alameda County, et al.

1 **2. Jurisdiction**

2 This court has jurisdiction by virtue of defendants are domiciled in Alameda County within the
3 scope of their employment being Alameda County Sheriff officers. And provide all activities
4 and services of employment within Alameda County.

5
6 3. Venue is proper in this Court because the cause arises in Alameda County in that defendants
7 are officers of Alameda County.

8
9
10 **Civil Rights Claims**

11
12 **4. Table of Contents**

13 This table of contents is not part of the claim as filed.

14 **Claims for Relief**

15 ONE: VIOLATION OF FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED
16 STATES CONSTITUTION 42 U.S.C. §1983 (freedom of speech, assembly, and association)

17
18 TWO: VIOLATION OF FOURTH AND FOURTEENTH AMENDMENTS TO THE
19 UNITED STATES CONSTITUTION 42 U.S.C. §1983 (unreasonable searches and seizures)

20
21 THREE: VIOLATION OF FOURTEENTH AMENDMENT TO THE UNITED STATES
22 CONSTITUTION 42 U.S.C. §1983 (equal protection and due process)

23
24 FOUR: DENIAL OF CALIFORNIA CONSTITUTIONAL RIGHTS (including speech, equal
25 protection and due process)

1
2 FIVE: ASSAULT AND BATTERY

3
4 SIX: FALSE ARREST AND FALSE IMPRISONMENT

5
6 SEVEN: CAL. CIVIL CODE SECTION 51.7

7
8 EIGHT: CAL. CIVIL CODE SECTION 52.1

9
10 NINE: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

11
12 TEN: NEGLIGENCE (allowing such conduct by police officers)

13
14 5. PRAYER FOR RELIEF

15
16
17 **CLAIMS FOR RELIEF**

18
19 6. ONE: VIOLATION OF FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED
20 STATES CONSTITUTION 42 U.S.C. §1983

21
22 7. Defendants' above-described conduct, and particularly the acts and omissions of the
23 conspirators, and of the command, supervisory and rank-and-file defendants in ordaining,
24 directing and carrying out the arrests and custodial maltreatment of the plaintiffs, violated
25

1 plaintiffs' rights to freedom of speech, assembly and association under the First and Fourteenth
2 Amendments to the United States Constitution.

3
4 TWO: VIOLATION OF FIRST, FOURTH, FIFTH, EIGHTH AND FOURTEENTH
5 AMENDMENTS TO THE
6 UNITED STATES CONSTITUTION 42 U.S.C. §1983

7
8 8. Defendants' above-described conduct, and particularly the acts and omissions of those
9 defendants involved in the groundless arrests and custodial maltreatment of the plaintiff class,
10 and those involved in individual acts of brutality against members of the sub-class, violated
11 plaintiffs' rights to be free from unreasonable searches and seizures under the Fourth and
12 Fourteenth Amendments to the United States Constitution.

13
14 THREE: VIOLATION OF FOURTEENTH AMENDMENT TO THE UNITED STATES
15 CONSTITUTION 42 U.S.C. §1983

16
17 9. Defendants' above-described conduct, and particularly the custodial maltreatment of plaintiffs,
18 including but not limited to the conduct described, violated plaintiffs' rights to equal protection
19 of the laws and to due process of law under the Fifth and Fourteenth Amendment to the United
20 States Constitution.

21
22 FOUR: DENIAL OF CALIFORNIA CONSTITUTIONAL RIGHTS.

23
24 10. The afore described actions of defendants denied plaintiffs their rights of privacy and to
25 freely speak, write and publish their sentiments, to instruct their representatives, petition

1 government for redress of grievances, to assemble freely, to due process of law and equal
2 protection of the laws, and to be free from unreasonable searches and seizures as provided by the
3 California Constitution, article I sections 1, 2, 3, 7 and 13. As a direct and proximate result of
4 said denials of plaintiff's state constitutional rights, plaintiffs suffered general and special
5 damages in an amount to be proven at trial.

6
7 FIVE: ASSAULT AND BATTERY

8
9 11. The above described conduct of defendants, and particular those named herein as Does. (See
10 par. 17), constituted assault and battery on plaintiffs. Defendants caused physical contact to be
11 inflicted on plaintiffs without plaintiffs' consent. As a direct and proximate result of said assault
12 and battery, plaintiffs suffered general and special damages in an amount to be proven at trial.

13
14 SIX: FALSE ARREST AND FALSE IMPRISONMENT

15
16 12. Defendants' above-described conduct constitutes false arrest and false imprisonment of
17 plaintiffs. As a direct and proximate result of said false arrest and false imprisonment, plaintiffs
18 suffered general and special damages in an amount to be proven at trial.

19
20 SEVEN: CAL. CIVIL CODE SECTION 51.7

21
22 13. Defendants' afore described conduct, and all of it, denied plaintiffs their rights to be free from
23 violence and intimidation by threat of violence because of their political affiliation or viewpoint
24 in violation of Cal. Civil Code section 51.7.

1 EIGHT: CAL. CIVIL CODE SECTION 52.1

2
3 14. Defendants' above-described conduct, and all of it, constitutes interference by threats,
4 intimidation and coercion of rights secured by the Constitution and laws of the United States and
5 by the Constitution and laws of the State of California in violation of Civil Code section 52.1.
6

7 NINE: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

8
9 15. Defendants' above-described conduct was extreme, unreasonable and outrageous. By
10 engaging in such conduct, defendants intentionally ignored or recklessly disregarded the
11 foreseeable risk that plaintiffs would suffer extreme emotional distress as a result of
12 defendants' conduct. As a proximate result of said conduct, plaintiffs suffered severe emotional
13 distress, pain and suffering, fear, anxiety, embarrassment, discomfort and humiliation, all to their
14 general damage in an amount to be proven, and incurred special damages in an amount to be
15 proven.
16

17 TEN: NEGLIGENCE

18
19 16. Defendants had a duty to properly hire, train, oversee, supervise and discipline police officers
20 and sheriff department employees so as to prevent violations of plaintiffs' constitutional,
21 statutory, and common law rights and to prevent physical injury to plaintiffs, and a duty to use
22 police equipment properly to avoid harm to plaintiffs. By the conduct described above,
23 defendants breached the duty of care owed to plaintiffs and proximately caused them general and
24 special damages in an amount to be proven.
25

1 **17. PRAYER FOR RELIEF**

2
3 Wherefore, plaintiffs pray for relief as follows:

4
5 A. An award of compensatory and general damages against defendants and each of them, in an
6 amount to be determined according to proof;

7
8 B. An award of exemplary and punitive damages against all defendants sued in their individual
9 capacities in an amount to be proven at trial;

10
11 C. An award of statutory damages and penalties pursuant to Cal. Civil Code §52(b);

12
13 D. An award of plaintiffs' costs, expenses and reasonable attorney's fees pursuant to 42 U.S.C.
14 §1988, Cal. Civil Code §§52(b) and 52.1(h), and Cal. Code of Civil Procedure §1021.5;

15
16 E. A preliminary and permanent injunction prohibiting defendants from again making any
17 baseless declaration of Unlawful Assembly as a pretext for dispersing and suppressing legitimate
18 First Amendment activities by plaintiffs and their associates; and from using
19 plastic handcuff in an improper or unsafe manner when arresting plaintiff protesters as a means
20 of injury, intimidation and summary punishment; and also ordering defendants to seal and
21 destroy all documents and records relating or referring to plaintiffs' arrests and any other
22 reference to plaintiffs in police files based on their arrests on June 18, 2007;

23
24 F. Trial by jury; and such other and further relief as the Court may deem just and proper.
25

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JUN 24 2008

AIMS

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James R. Gillette In Pro Per 507 Redwood Ave Milpitas Ca.		FOR COURT USE ONLY ENDORSED FILED ALAMEDA COUNTY MAY 6 2008 CLERK OF THE SUPERIOR COURT By Graciela Pacheco, Deputy	
TELEPHONE NO.: (408) 719-1039 FAX NO.:		RECEIVED JUN 24 2008 AIMS	
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 24405 Amador St. MAILING ADDRESS: 24405 Amador St. CITY AND ZIP CODE: Hayward Ca. 94544 BRANCH NAME: Hayward Hall Of Justice		CASE NAME: Gillette v. Alameda County et. al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited <input type="checkbox"/> Limited (Amount (Amount demanded demanded is exceeds \$25,000) \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
CASE NUMBER: HG08385835		JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input checked="" type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 10 (See attachment A)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: MAY 06 2008

JAMES R. GILLETTE

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Other Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Collections (e.g., money owed, open book accounts) (09)	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Product Liability (not asbestos or toxic/environmental) (24)	Collection Case—Seller Plaintiff	Enforcement of Judgment
Medical Malpractice (45)	Other Promissory Note/Collections Case	Enforcement of Judgment (20)
Medical Malpractice—Physicians & Surgeons	Insurance Coverage (not provisionally complex) (18)	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Auto Subrogation	Confession of Judgment (non-domestic relations)
Other PI/PD/WD (23)	Other Coverage	Sister State Judgment
Premises Liability (e.g., slip and fall)	Other Contract (37)	Administrative Agency Award (not unpaid taxes)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Contractual Fraud	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Other Contract Dispute	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Real Property	Miscellaneous Civil Complaint
Other PI/PD/WD	Eminent Domain/Inverse Condemnation (14)	RICO (27)
Non-PI/PD/WD (Other) Tort	Wrongful Eviction (33)	Other Complaint (not specified above) (42)
Business Tort/Unfair Business Practice (07)	Other Real Property (e.g., quiet title) (26)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Writ of Possession of Real Property	Injunctive Relief Only (non-harassment)
Defamation (e.g., slander, libel) (13)	Mortgage Foreclosure	Mechanics Lien
Fraud (16)	Quiet Title	Other Commercial Complaint Case (non-tort/non-complex)
Intellectual Property (19)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Other Civil Complaint (non-tort/non-complex)
Professional Negligence (25)	Unlawful Detainer	Miscellaneous Civil Petition
Legal Malpractice	Commercial (31)	Partnership and Corporate Governance (21)
Other Professional Malpractice (not medical or legal)	Residential (32)	Other Petition (not specified above) (43)
Other Non-PI/PD/WD Tort (35)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Civil Harassment
Employment	Judicial Review	Workplace Violence
Wrongful Termination (36)	Asset Forfeiture (05)	Elder/Dependent Adult Abuse
Other Employment (15)	Petition Re: Arbitration Award (11)	Election Contest
	Writ of Mandate (02)	Petition for Name Change
	Writ—Administrative Mandamus	Petition for Relief From Late Claim
	Writ—Mandamus on Limited Court Case Matter	Other Civil Petition
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor	
	Commissioner Appeals	

ALTERNATIVE DISPUTE RESOLUTION
INFORMATION PACKAGE
Effective April 15, 2005

Instructions to Plaintiff / Cross-Complainant

In all general civil cases filed in the trial courts after June 30, 2001, the plaintiff is required to serve a copy of this ADR information package on each defendant.

California Rules of Court, Rule 201.9 (Excerpt)

(a) Each court must make available to the plaintiff, at the time of filing of the complaint, an Alternative Dispute Resolution (ADR) information package that includes, at a minimum, all of the following:

- (1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes . . .
- (2) Information about the ADR programs available in that court . . .
- (3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA . . .
- (4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(b) Court may make package available on Web site . . .

(c) The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action along with the cross-complaint.

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AIMS

GENERAL INFORMATION ABOUT ADR

Introduction to Alternative Dispute Resolution

Did you know that most civil lawsuits settle without a trial? And did you know that there are a number of ways to resolve civil disputes without having to sue somebody? These alternatives to a lawsuit are known as alternative dispute resolution (also called ADR). The most common forms of ADR are mediation, arbitration, and neutral evaluation. There are a number of other kinds of ADR as well.

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. In mediation, for example, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help parties resolve disputes without having to go to court.

ADR is not new. ADR is available in many communities through court-connected and community dispute resolution programs and private neutrals.

Advantages of Alternative Dispute Resolution

ADR can have a number of advantages over a lawsuit:

- ADR can be speedier. A dispute often can be resolved in a matter of months, even weeks, through ADR, while a lawsuit can take years.
- ADR can save money. Court costs, attorney fees, and expert witness fees can be saved.
- ADR can permit more participation. With ADR, the parties may have more chances to tell their side of the story than in court and may have more control over the outcome.
- ADR can be flexible. The parties can choose the ADR process that is best for them.
- ADR can be cooperative. In mediation, for example, the parties having a dispute may work together with the neutral to resolve the dispute and agree to a remedy that makes sense to them, rather than work against each other.
- ADR can reduce stress. There are fewer, if any, court appearances. And because ADR can be speedier, cheaper, and can create an atmosphere in which the parties are normally cooperative, ADR is easier on the nerves. The parties don't have a lawsuit hanging over their heads. For all the above reasons, many people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve a dispute instead of filing a lawsuit. Even when a lawsuit has been filed, ADR can be used before the parties' positions harden and the lawsuit becomes costly. ADR has been used to resolve disputes even after a trial, when the result is appealed.

Disadvantages of Alternative Dispute Resolution

ADR may not be suitable for every dispute.

If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure and review for legal error by an appellate court.

There generally is less opportunity to find out about the other side's case with ADR than with litigation. ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.

The neutral may charge a fee for his or her services.

If a dispute is not resolved through ADR, the parties may have to put time and money into both ADR and a lawsuit.

Lawsuits must be brought within specified periods of time, known as statutes of limitations. Parties must be careful not to let a statute of limitations run out while a dispute is in an ADR process.

Three Common Types of Alternative Dispute Resolution

This section describes the forms of ADR most often found in the California state courts and discusses when each may be right for a dispute.

Mediation

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved; the parties do.

Mediation is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other where at least one party loses. Mediation normally leads to better relations between the parties and to resolutions that hold up. For example, mediation has been very successful in family disputes, particularly with child custody and visitation.

Mediation is particularly effective when the parties have a continuing relationship, like neighbors or business people. Mediation also is very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to let out their feelings and find out how they each see things.

Mediation may not be a good idea when one party is unwilling to discuss a resolution or when one party has been a victim of the other or has unequal bargaining power in the mediation. However, mediation can be successful for victims seeking restitution from offenders. A mediator can meet with the parties separately when there has been violence between them.

Arbitration

In arbitration, a neutral (the arbitrator) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit. Often a case that may take a week to try in court can be heard by an arbitrator in a matter of hours, because evidence can be submitted by documents (like medical reports and bills and business records) rather than by testimony.

There are two kinds of arbitration in California: (1) Private arbitration, by agreement of the parties involved in the dispute, takes place outside of the courts and is normally binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an appeal of that decision. (2) "Judicial arbitration" takes place within the court process and is not binding unless the parties agree at the outset to be bound. A party to this kind of arbitration who does not like a judicial arbitration award may file a request for trial with the court within a specified time. However, if that party does not do better in the trial than in arbitration, he or she may have to pay a penalty.

Arbitration is best for cases where the parties want a decision without the expense of a trial. Arbitration may be better than mediation when the parties have no relationship except for the dispute.

Arbitration may not be a good idea when the parties want to decide on the outcome of their dispute themselves.

Neutral Evaluation

In evaluation, a neutral (the evaluator) gives an opinion on the strengths and weaknesses of each party's evidence and arguments and makes an evaluation of the case. Each party gets a chance to present his or her side and hear the other side. This may lead to a settlement or at least help the parties prepare to resolve the dispute later on. If the neutral evaluation does not resolve the dispute, the parties may go to court or try another form of ADR.

Neutral evaluation, like mediation, can come early in the dispute and save time and money.

Neutral evaluation is most effective when a party has an unrealistic view of the dispute, when the only real issue is what the case is worth, or when there are technical or scientific questions to be worked out.

Neutral evaluation may not be a good idea when it is too soon to tell what the case is worth or if the dispute is about something besides money, like a neighbor playing loud music late at night.

Other Types of Alternative Dispute Resolution

There are several other types of ADR besides mediation, arbitration, and neutral evaluation. Some of these are conciliation, settlement conferences, fact-finding, mini-trials, and summary jury trials. Sometimes parties will try a combination of ADR methods. The important thing is to try to find the type or types of ADR that are most likely to resolve your dispute.

The selection of a neutral is an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals. You may wish to inquire about the qualifications of any neutral you are considering.

Agreements reached through ADR normally are put in writing by the neutral and, if the parties wish, may become binding contracts that can be enforced by a judge.

You may wish to seek the advice of an attorney about your legal rights and other matters relating to the dispute.

Help Finding an Alternative Dispute Resolution Provider in Your Community

To locate a dispute resolution program or private neutral in your community:

- **Visit the Court's Web site.** The Alameda County Superior Court maintains a list of court-connected mediators, neutral evaluators, and private arbitrators at <http://www.co.alameda.ca.us/courts/adr.htm>.
- **Contact the Small Claims Court Legal Advisor.** The small claims legal advisor for Alameda County is located at the Wiley W. Manuel Courthouse, Self-Help Center. The phone number is 510-268-7665.
- **Visit the California Department of Consumer Affairs' Web site.** The Department of Consumer Affairs (also called the DCA) has posted a list of conflict resolution programs throughout the state. The list can be found at http://www.dca.ca.gov/r_t/mediati1.htm

You can also call the Department of Consumer Affairs, Consumer Information Center, at 800-952-5210.

- **Contact your local bar association.** You can find a list of local bar associations in California on the State Bar Web site at <http://www.calbar.org/2lin/2bar.htm>.

If you cannot find a bar association for your area on the State Bar Web site, check the yellow pages of your telephone book under "Associations."

- **Look in the yellow pages of your telephone book under "Arbitrators" or "Mediators."**
- **Automotive Repair, Smog Check:** The California Bureau of Automotive Repair (also known as BAR) offers a free mediation service for consumers who are dissatisfied with an auto repair or a smog check, or who dispute an invoice for such services. BAR registers and regulates California automotive repair facilities and licenses smog, lamp, and brake inspection stations. Learn more at <http://smogcheck.ca.gov/smogweb/geninfo/otherinfo/mediation.htm> or call 800-952-5210.
- **Attorney Fees:** The State Bar of California administers a mandatory fee arbitration program to resolve attorney fee disputes between lawyers and their clients. The program is an informal, low-cost forum and is mandatory for a lawyer if a client requests it. Mediation of attorney fees disputes may also be available in some areas of California. Learn more at <http://www.calbar.org/2bar/3arb/3arbdx.htm> or call 415-538-2020.

ALAMEDA COUNTY SUPERIOR COURT
ADR PROGRAM

ADR Program Administrator

Pursuant to California Rule of Court 1580.3, the presiding judge of the Superior Court of California, County of Alameda has designated Benjamin D. Stough, Berkeley Trial Court Administrator, to serve as ADR program administrator.

A Plaintiff may elect, the parties may stipulate or a judge may refer a case to Judicial Arbitration. The Judicial Arbitration Program Coordinator may be contacted at (510) 670-6646.

The Judicial Arbitration Process

Appointment of Arbitrator (must be appointed within 30 days after referral per CRC 1605).

- ⇒ Parties mailed list of five names from which to select. (List mailed within 5-10 business days after receipt of referral).
- ⇒ Each party may reject one of the names listed (10 calendar days per *CRC 1605a*)
- ⇒ The administrator randomly appoints the arbitrators from the names remaining on the list. If only one remains then is deemed appointed.

Assignment of Case (CRC 1605a(4))

- ⇒ Within 15 days of notice of the appointment, the arbitrator shall contact parties in writing about time, date, and place of the hearing. The parties shall receive at least 30 days notice prior to the hearing.

Hearings (CRC 1611)

- ⇒ Shall be scheduled so as to be completed not less than 35 days nor more than 90 days from the date the arbitrator was assigned. For good cause shown, the case may be continued an additional 90 days by the Case Management Judge.

Award of Arbitrator (CRC 1615b & c)

- ⇒ Arbitrator must file an award within 10 days after conclusion of the arbitration hearing. The court may allow 20 additional days upon application of arbitrator in cases of unusual length or complexity.
- ⇒ Within 30 days of the filing of the award the parties may file a Request for Trial de Novo. The clerk shall enter the award as a judgment after 30 days provided a Trial de Novo has not been filed.

Return of Case to Court

- ⇒ Upon Filing of Trial de Novo the action is returned to Case Management Judge for further proceedings. (*CRC 1616 & Local Rule 6.4*)
- ⇒ If Trial de Novo is not filed then judgment is entered and the Case Management Judge is notified (*CRC 1615c & Local Rule 6.6*)
- ⇒ If parties indicate a settlement then case is returned to Case Management Judge and case is continued 45 days for an Order to Show Cause RE-filing a dismissal. (*Local Rule 6.6*)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

<input type="checkbox"/> Allen E. Broussard Justice Center 600 Washington Street, Oakland, CA 94707	<input type="checkbox"/> Berkeley Courthouse 2000 Center Street, 2nd Fl., Berkeley, CA 94704	<input type="checkbox"/> George E. McDonald Hall of Justice 2233 Shoreline Drive, Alameda, CA 94501
<input type="checkbox"/> Fremont Hall of Justice 39439 Paseo Padre Parkway, Fremont, CA 94538	<input type="checkbox"/> Gale/Schanone Hall of Justice 5672 Stoneridge Drive, Pleasanton, CA 94588	<input type="checkbox"/> Wiley W. Manuel Courthouse 661 Washington Street, Oakland, CA 94607
<input type="checkbox"/> Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544	<input type="checkbox"/> René C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	

Case No.: _____

Plaintiff

vs.

STIPULATION FOR ALTERNATIVE
DISPUTE RESOLUTION (ADR)

Defendant

The parties by and through their attorneys of record hereby stipulate to submit the within
controversy to the following Alternative Dispute Resolution process:

ORDER

The foregoing stipulation having been read and considered, and good cause appearing, now therefore,

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the matter be set for Order to Show Cause Hearing RE:

Dismissal on _____ at _____ a.m./p.m. in Department _____

Dated: _____

JUDGE OF THE SUPERIOR COURT

(SEAL)

PROOF OF SERVICE

Laura C. M. Dobbins certifies and declares as follows:

I am employed in the County of Alameda, State of California. I am over the age of 18 years, and not a party to this action. My business address is 1939 Harrison Street, Suite 800, Oakland, California, 94612-3527.

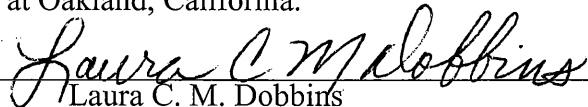
On July 21, 2008, I served the foregoing document described as **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. Section 1441(b) (Federal Question)** on all interested parties in this action, in the manner set forth below.

- ☐ **By Facsimile:** By personally transmitting a true copy of the document(s) via an electronic facsimile machine maintained at 510-273-8570, at _____ a.m./p.m., to the numbers listed below. The transmission was reported as complete and without error. I caused said facsimile machine to print a transmission report, a copy of which is attached to the original of this proof of service.
- ☐ **By Electronic Mail:** By personally transmitting a true copy of the document(s) via an electronic mail account maintained at the law firm of Haapala, Thompson & Abern, LLP, between the hours of 8:00 a.m. and 5:00 p.m., to the e-mail address listed below. The transmission was reported as complete and without error.
- ☐ **By Messenger Service:** By arranging for said document(s) to be picked up by an agent for One Hour Delivery to be delivered on the date set forth below, to the address set forth below.
- ☒ **By Mail:** By placing the document(s) listed above in an envelope addressed as set forth below, with postage thereon fully prepaid, in the United States mail at Oakland, California. I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business with postage fully prepaid.
- ☐ **Overnight Delivery:** By placing the document(s) in an envelope designated by United Parcel Service ("UPS"), an express service carrier, for delivery by Next Day Service for which delivery fees were paid or provided, with said envelope addressed as set forth below. I deposited the envelope in a box or other facility regularly maintained by UPS, or delivered to a courier or driver authorized by said express service carrier to receive documents.

James R. Gillette
507 Redwood Avenue
Milpitas, CA 95035

Plaintiff In Pro Per

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 21, 2008, at Oakland, California.


Laura C. M. Dobbins

Proof Of Service